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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/803,286

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7590 08/09/2007  
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EXAMINER

MONIKANG, GEORGE C

ART UNIT

PAPER NUMBER

2615

MAIL DATE

DELIVERY MODE

08/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/803,286

Applicant(s)

SINGHAL ET AL.

Examiner

George C. Monikang

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-15 (Application No. 10/803,286, hereinafter referred to as '286) are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 copending (Application No. 10/803,420, hereinafter referred to as '420). Although the conflicting claims are not identical, they are not patentably distinct from each other.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

The '286 claims 1-15 are broader recitations of the same invention claimed in '420 claims 1-15. Therefore, '420 claims 1-15 are encompassed by '286 claims 1-15. It

is critical that patents issuing from these applications be commonly owned to avoid potential licensees from owing license fees to two different parties.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 4-7, 9-12 & 14-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Fukumoto, US Patent Pub. 2003/0171937 A1.

Re Claim 1, Fukumoto discloses a method for slowing down an encoded original audio signal (para 0036), said original audio signal having an original frequency and original playback speed (para 0036), said method comprising: receiving the encoded original audio signal (para 0036); retrieving frames of the original audio signal (para 0036); replicating frames at a rate according to a desired playback speed (para 0036); wherein said desired playback speed is less than the original playback speed (para 0036); applying a window function to the replicated frames (fig. 1: 15 & 16; para 0054; para 0012: paragraph 0012 of the background teaches in detail how the FD/TD converter works); converting the signal with the windowed replicated frames from digital to analog format (fig. 1: 15 & 16; para 0054; para 0012: paragraph 0012 of the

background teaches in detail how the FD/TD converter works); and using the original frequency to playback the analog format signal (para 0077: same pitch).

Re Claim 2, Fukumoto discloses the method according to claim 1 wherein the encoded original audio signal is encoded in the frequency domain using one of a plurality of encoding schemes (para 0036), the method further comprising frequency-domain decoding of the encoded original audio signal (para 0036).

Re Claim 4, Fukumoto discloses the method according to claim 1 wherein the desired playback speed is a predefined default value (para 0072).

Re Claim 5, Fukumoto discloses the method according to claim 1 wherein the desired playback speed is a programmable value (para 0036).

Claim 6 has been analyzed and rejected according to claim 1.

Claim 7 has been analyzed and rejected according to claim 2.

Claim 9 has been analyzed and rejected according to claim 4.

Claim 10 has been analyzed and rejected according to claim 5.

Claim 11 has been analyzed and rejected according to claim 1.

Claim 12 has been analyzed and rejected according to claim 2.

Claim 14 has been analyzed and rejected according to claim 4.

Claim 15 has been analyzed and rejected according to claim 5.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3, 8 & 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fukumoto, US Patent Pub. 2003/0171937 A1 as applied to claim 2 above, in view of Mesarovic et al, US Patent 6,885,992 B2.

Re Claim 3, Fukumoto discloses the method according to claim 2 wherein said decoding comprises: decoding said encoded signal using a decoding scheme corresponding to said one of a plurality of encoding schemes (para 0036); but fails to disclose applying an inverse transform to the encoded audio signal; and applying an inverse window function. However, Mesarovic et al does (fig. 5; col. 6, lines 49-59).

Taking the combined teachings of Fukumoto and Mesarovic et al as a whole, one skilled in the art would have found it obvious to modify the method according to claim 2 wherein said decoding comprises: decoding said encoded signal using a decoding

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scheme corresponding to said one of a plurality of encoding schemes (para 0036) of Fukumoto with applying an inverse transform to the encoded audio signal; and applying an inverse window function as taught in Mesarovic et al (fig. 5; col. 6, lines 49-59) to maintain an equal pitch for audio signals with modified speed.

Claim 8 has been analyzed and rejected according to claim 3.

Claim 13 has been analyzed and rejected according to claim 3.

### **Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Monikang whose telephone number is 571-270-1190. The examiner can normally be reached on M-F. alt Fri. Off 7:30am-5:00pm (est).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

George Monikang

8/4/2007

  
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8/6/07